

ou en bonnes œuvres dans Terrebonne, la réparation qu'il doit pour le scandale et le désordre qu'il est accusé d'avoir causés à Terrebonne en vendant de la boisson, contre les dispositions de la loi, aux gens de cette localité. Je n'ai pas à discuter sur l'opportunité du procédé de M. le curé, mais je puis dire que dans l'occasion en question, l'intention de voler n'existait certainement pas, et comme cette condition est essentielle pour constituer l'offense, la plainte ne peut pas se maintenir; elle est donc renvoyée.

(J. J. B.)

PRISONERS' EVIDENCE.

The *Solicitors Journal*, referring to Mr. Justice Stephen's article on prisoners' evidence, says:—"Mr. Justice Stephen, in his article in the *Nineteenth Century*, has stated very fairly the results of his experience and observation of prisoners' evidence. He sets out by remarking that the value of the evidence given by prisoners varies according to the circumstances of each particular case, as much as the evidence of any other class of witnesses does, and that although their interest in the result is in many cases so important as to destroy altogether the value of their evidence, there are also cases in which it is of great and even of decisive importance. He proceeds to support these propositions by reference to actual cases tried before him. The point of some of these illustrations is to show that a prisoner's evidence is worthless when the circumstances are such that he cannot be contradicted on the subject-matter of his evidence; that in some cases the evidence of the prisoner is worthless, owing to his inability to give the only evidence which can be of any service to him—*e. g.*, to produce or account for certain articles connected with the crime, and alleged to have been seen in his possession; that the evidence of the prisoner may have been of the highest service to him when it supplies the thread on which corroborating facts can be strung; and that in some cases the evidence of the prisoner, though uncorroborated, bears upon it such marks of honesty and sincerity as to lead the jury at once to stop the case. These are

points showing that the competency of prisoners as witnesses, while on the whole favorable to them, is also favorable to the administration of justice; but some of the illustrations hardly tend in this direction. They show that although a prisoner's evidence may be worthless for proving his innocence, the absence of it may be taken as a confession. If the law is altered, every accused person will have to swear his innocence or be taken to have admitted his guilt. Mr. Justice Stephen thinks that this is just; but has he considered in this connection the fact, which further on in his article he admits, that a 'prisoner, generally speaking, is an ignorant, uneducated man, dreadfully frightened, much confused, and almost always under the impression that the judge and jury know as much about his case as he does himself, and are able at once to appreciate whatever he says about it?' Is it just that a man in this condition, utterly unfit to understand what statements are likely to be useful to him or relevant to the case, should be practically compelled to make a statement which, however innocent he may be, will be worse than useless? What good would a mere statement that he is innocent do him? In a case mentioned by the learned writer, he says that the prisoner's complaints and reproaches were 'wholly unintelligible, thanks to the combined effects of ignorance, confusion, fear and anger,' but by the help of hints from the judge the meaning of the defence was elicited, and the jury acquitted the prisoner. But suppose, instead of a patient judge, there had been on the bench an irritable judge, or a judge in a hurry for his dinner or anxious to catch a train, what would have been the result? Again, Mr. Justice Stephen admits that if prisoners were made competent witnesses there would be a considerable increase of perjury, and not merely of perjury, but in the case of wealthy and educated prisoners, of successful perjury. These people will be so well advised as to the strong and the weak points in their cases as to be able to lie in the witness box with skill and effect. And lastly, one result of the writer's experience is to show that failures of justice may occur by reason of the prisoner, either from artfulness or mere blundering, keeping back till the last